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The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ERIC C. ANDERSON

Appeal 2008-6299
Application 09/213,131
Technology Center 2600

Decided:¹ March 9, 2009

Before JOSEPH F. RUGGIERO, ROBERT E. NAPPI,
and MARC S. HOFF, *Administrative Patent Judges*.

NAPPI, *Administrative Patent Judge*.

DECISION ON APPEAL

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, begins to run from the decided date shown on this page of the decision. The time period does not run from the Mail Date (paper delivery) or Notification Date (electronic delivery).

This is a decision on appeal under 35 U.S.C. § 134 of the final rejection of claims 7-9, 11-18, and 20-22.² We have jurisdiction under 35 U.S.C. § 6(b).

We affirm the Examiner's rejection of these claims.

INVENTION

The invention is directed towards a system and method for providing correction of the aspect ratio of images captured by digital cameras. *See* Specification 1:2-4. Claim 7 is representative of the invention and reproduced below:

7. A method for correcting an aspect ratio of an image captured by an image capture device comprising the steps of:
 - rotating the image, if required, so that the image appears upright on a display of the image capture device;
 - determining if the aspect ratio of the image matches a predetermined aspect ratio;
 - decompressing the image if required;
 - cropping the image if the aspect ratio does not match the predetermined aspect ratio, thereby providing a cropped image; and
 - providing the cropped image to the display;
- wherein the image capture device is a digital camera.

REFERENCES

Parulski	US 5,270,831	Dec. 14, 1993
Hayakawa	US 5,550,938	Aug. 27, 1996

² Claims 1-6, 10, 19, and 23-27 were previously cancelled.

REJECTIONS AT ISSUE

The Examiner rejected claims 7-9, 11-18, and 20-22 under 35 U.S.C. § 103(a) as being unpatentable over Parulski in view of Hayakawa.

ISSUES

Rejection of claims 7-9, 11-18, and 20-22 under 35 U.S.C. § 103(a) as unpatentable over Parulski in view of Hayakawa.

Appellant argues on pages 6 through 10 of the Appeal Brief and 2 through 5 of the Reply Brief that the Examiner’s rejection of claims 7-9, 11-18, and 20-22 under 35 U.S.C. § 103(a) as being unpatentable over Parulski in view of Hayakawa is in error. We select independent claim 7 as representative of the group comprising claims 7-9, 11-18, and 20-22 since Appellant does not separately argue any of the claims with particularity. 37 C.F.R. § 41.37(c)(1)(vii). Appellant argues that the Parulski scanner is not the same as a digital camera. App. Br. 6; Reply Br. 2-4. In addition, Appellant argues that neither Parulski nor Hayakawa even suggests a digital camera. App. Br. 7. Finally, Appellant argues that neither reference discloses “rotating the image, if required, so that the image appears upright on a display of the image capture device” and “providing the cropped image to the display.” App. Br. 9; Reply Br. 5.

Thus, with respect to claims 7-9, 11-18, and 20-22, Appellant’s contentions present us with two issues. First, has Appellant shown that the Examiner erred in finding the scanner taught by Parulski is the same as the claimed digital camera? Second, has Appellant shown that the Examiner erred in finding that the combination of Parulski and Hayakawa teaches

rotating an image so that the image appears upright on a display of the image capture device, and providing the cropped image to the display?

FINDINGS OF FACT

Parulski

1. Parulski teaches a system of scanning photographic images through the use of a high resolution opto-electronic film scanner. Col. 4, ll. 32-36 and Fig. 1.
2. After the image is scanned, the scanner sends the image to a computer where it is displayed and processed using image processing software to enlarge, rotate, crop, etc. so that a desired image is created. Col. 2, ll. 59-66, Col. 4, ll. 42-49 and Fig. 1.
3. A header file is associated with each image so that when the image is displayed it will have the correct aspect ratio and an upright orientation. Each header file or presentation control file contains presentation control codes that contain a 2 bit orientation code, a 3 bit aspect ratio code, and a supplemental field. The 2 bit orientation code contains four display orientations and the 3 bit aspect ratio code contains eight different aspect ratios. Col. 5, ll. 20-29 and 63-67, col. 6, ll. 1-15, and Fig. 3.

Hayakawa

4. Hayakawa teaches a cordless image scanner comprising an LCD display, a touch panel, a memory card connector, an image sensor, and a light source that can be connected to a computer or word processor. Col. 2, l. 63, col. 3, l. 55, and Figs. 1, 2A, and 4.
5. A skilled artisan knows that an image sensor includes a lens. *See* Fig. 2A.

6. After an image is scanned it can be displayed and reviewed in order to determine whether the image should be stored or transferred to a computer. Col. 4, ll. 55-60.

PRINCIPLES OF LAW

Office personnel must rely on Appellants' disclosure to properly determine the meaning of the terms used in the claims. *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 980 (Fed. Cir. 1995) (en banc). “[I]nterpreting what is *meant* by a word *in* a claim is not to be confused with adding an extraneous limitation appearing in the specification, which is improper.” *In re Cruciferous Sprout Litigation*, 301 F.3d 1343, 1348 (Fed. Cir. 2002) (internal quotation marks and citations omitted (emphasis in original)).

ANALYSIS

Rejection of claims 7-9, 11-18, and 20-22 under 35 U.S.C. § 103(a) as unpatentable over Parulski in view of Hayakawa.

Appellant's arguments have not persuaded us that the Examiner erred in rejecting claims 7-9, 11-18, and 20-22 under 35 U.S.C. § 103(a) as being unpatentable over Parulski in view of Hayakawa. Appellant argues that neither of the references discloses a digital camera. App. Br. 7. In particular, Appellant argues that the Parulski scanner, used by the Examiner to reject the claim, is not a digital camera. App. Br. 7-9; Reply Br. 3-4. However, the Examiner found, and Appellant does not disagree, that the scanner comprises an image sensing array and an A/D circuit. Ans. 7.

Therefore, the Examiner found that a scanner is equivalent to a digital camera. Ans. 7. We agree with the Examiner.

Claim 7 recites “a method for correcting an aspect ratio of an image captured by an image capture device...wherein the image capture device is a digital camera.” Appellant’s Specification does not specifically define the phrase “digital camera.” In fact, Appellant’s Specification merely indicates that a “[c]amera 110 preferably comprises an imaging device 114, a system bus 116 and a computer 118” (emphasis added). Spec. 7:6-7. Appellant argues that the imaging device typically includes a number of additional components, such as a lens, iris, filter, etc. (App. Br. 8), but Appellant’s Specification does not define a digital camera as necessarily including these additional components. Thus, we decline to import these limitations into the claim, and consider the scope of the term “digital camera” to be broad and to encompass a digital imaging device which captures an image and transfers it to a computer.

Parulski teaches a system of scanning photographic images through the use of a high resolution opto-electronic film scanner. FF 1. The scanner is connected to a computer system so that the image is transferred and displayed on a monitor. FF 2. In addition, the Examiner found that a scanner “comprises at least an image sensing array (e.g. CCD) and an A/D circuit.” Ans. 7. Appellant has not argued that a scanner does not contain an image sensing array and an A/D circuit. Therefore, the scanner of Parulski converts images into a digital representation and transfers it to a computer system. As a result, Parulski teaches an imaging capture device, i.e., a scanner, which meets the claimed digital camera. We further note that, even if we were to construe the a digital camera to require some of the

additional components as argued by Appellant on page 8 of the Brief, that a scanner would still meet the claim, as we find that scanners also typically include other components such as a lens. Fact 6.

Appellant additionally argues that Parulski fails to teach rotating the image and displaying the cropped image on the display. App. Br. 9; Reply Br. 3-5. Specifically, Appellant argues that Parulski only teaches displaying the image on a playback device and not the image capture device. App. Br. 9; Reply Br. 3. While we concur with Appellant's assertion that Parulski does not display the image on the actual image capture device, we recognize that the Examiner uses Parulski in combination with Hayakawa to teach this limitation. The Examiner has found that Parulski teaches rotating and cropping the image and Hayakawa teaches displaying the image on the scanner, i.e., the image capture device. Ans. 9-10. We agree with the Examiner.

Claim 7 recites "rotating the image, if required, so that the image appears upright on a display of the image capture device...cropping the image...thereby providing a cropped image; and providing the cropped image to the display." As stated above, Parulski teaches a system of scanning photographic images through the use of a high resolution opto-electronic film scanner. FF 1. After the image is scanned, it can be processed, e.g. rotated, cropped, etc., to achieve a desired appearance. FF 2. The image contains information (presentation control code) that tells the display how to display the image so that it has the correct aspect ratio and orientation. FF 3. The presentation control codes are stored in a presentation control file. FF 3. The presentation control code or header file can be arranged as a 2 bit orientation code, a 3 bit aspect ratio code, and a

supplemental field. FF 3. The 2 bit orientation code will allow for four display orientations and the 3 bit aspect ratio code will allow for eight different aspect ratios. FF 3. Therefore, Parulski does teach rotating and cropping the image and inserting information into the image so that, when displayed, it appears upright on the display.

The Examiner further uses Hayakawa to teach displaying the image on the image capture device. Hayakawa teaches a cordless image scanner comprising an LCD display, a touch panel, a memory card connector, an image sensor (including a lens), and a light source that can be connected to a computer or a word processor. FF 4-5. After an image is scanned, the image can be displayed in order to determine whether the image should be saved or transferred to a host computer. FF 6. Therefore, by combining Parulski with Hayakawa an image can be scanned, rotated, cropped, an appropriate aspect ratio determined, and then displayed on the image capture device, i.e., the scanner, to determine whether the image should be stored or transferred. Thus, we sustain the Examiner's rejection.

CONCLUSIONS OF LAW

Appellant has not shown the Examiner erred in finding that the scanner of Purulski meets the claimed digital camera.

Appellant has not shown the Examiner erred in finding that the combination of Parulski and Hayakawa teaches rotating an image so that the image appears upright on a display of the image capture device and providing the cropped image to the display.

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SUMMARY

The Examiner's rejection of claims 7-9, 11-18, and 20-22 is affirmed.
No time period for taking any subsequent action in connection with
this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

ELD

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